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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,423	08/30/2001	Nicolas Bouthors	C66.12-0001	7851

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EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/943,423

**Applicant(s)**

BOUTHORS, NICOLAS

**Examiner**

Pierre E. Elisca

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Office action is in response to Applicant's response filed on 12/27/2004.
2. Claims 1-20 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Leleu (U.S. Pat. No. 6,088,687) in view of Official notice.

As per claims 1-19, Leleu discloses a device for payment and electronic currency systems and systems for billing or payment for data transmission in the network. The device or machine can insert, within the control structure associated with a data packet in a data transmission network, a token containing a toll unit credit, and can initiate an electronic or physical machine-executed operation after having authenticated (which is readable as Applicant's claimed invention wherein said a process for adapting the content and/or the cost of transmission and/or service operations carried out within a data packet transmission network), during a session between a source unit and a destination unit interconnected via at least one node of said network, said destination unit and/or said at least one node being used by at least one operator and/or at least

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one service provider, said process being such that (see., abstract, fig 2, col 2, lines 12-36, lines 49-61);

In said source unit and/or in at least one node, called a credit node, a credit gateway assigns to each data packet, sent by said source unit, a payment token which has an initial value representing a credit of monetary units previously acquired from a toll center (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, specifically toll unit);

In said destination unit and/or in at least one node, called a debit node, located downstream of said at least one credit node, a debit gateway modifies the payment token assigned to each data packet received, so as to reduce said payment token initial value, by an amount representing the cost of the operations to be carried out, for said received packet, by said destination unit and/or said at least one debit node (see., abstract, fig 2, col 2, lines 12-36, lines 49-61);

Said destination unit and/or each debit node, in which a said debit gateway is included, receives from said toll center, for each packet received during said session, financial settlement of said representative amount (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, col 6, lines 58-67, col 8, lines 12-61);

Characterized in that at least one of said payment tokens includes, apart from said initial value representing a credit of monetary units, at least one operation adaptation datum, allowing said destination unit and/or said at least one debit node to adapt; the content of the operations to be carried out; and /or the cost actually billed to said source unit and/or said at least one credit node, for carrying out said operations (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, col 6, lines 58-67, col 8, lines 12-61).

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It is to be noted that Leleu does not explicitly state that "one operation adaptation datum". However, the Examiner hereby interprets "one operation adaptation datum" as an authorization for processing payment since most payment systems include authorization for processing payment. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an operation adaptation datum into the payment system of Leleu because this would secure electronic server to allow safe completion of online transactions.

As per calim 20, Leleu discloses a device for payment and electronic currency systems and systems for billing or payment for data transmission in the network. The device or machine can insert, within the control structure associated with a data packet in a data transmission network, a token containing a toll unit credit, and can initiate an electronic or physical machine-executed operation after having authenticated (which is readable as Applicant's claimed invention wherein said a system for adapting the content and/or the cost of transmission and/or service operations carried out within a data packet transmission network), during a session between a source unit and a destination unit interconnected via at least one node of said network, said destination unit and/or said at least one node being used by at least one operator and/or at least one service provider, said process being such that (see., abstract, fig 2, col 2, lines 12-36, lines 49-61); In said source unit and/or in at least one node, called a credit node, a credit gateway assigns to each data packet, sent by said source unit, a payment token which has an

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initial value representing a credit of monetary units previously acquired from a toll center (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, specifically toll unit);

In said destination unit and/or in at least one node, called a debit node, located downstream of said at least one credit node, a debit gateway modifies the payment token assigned to each data packet received, so as to reduce said payment token initial value, by an amount representing the cost of the operations to be carried out, for said received packet, by said destination unit and/or said at least one debit node (see., abstract, fig 2, col 2, lines 12-36, lines 49-61);

Said destination unit and/or each debit node, in which a said debit gateway is included, receives from said toll center, for each packet received during said session, financial settlement of said representative amount (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, col 6, lines 58-67, col 8, lines 12-61);

Characterized in that at least one of said payment tokens includes, apart from said initial value representing a credit of monetary units, at least one operation adaptation datum, allowing said destination unit and/or said at least one debit node to adapt; the content of the operations to be carried out; and /or the cost actually billed to said source unit and/or said at least one credit node, for carrying out said operations (see., abstract, fig 2, col 2, lines 12-36, lines 49-61, col 6, lines 58-67, col 8, lines 12-61).

It is to be noted that Leleu does not explicitly state that "one operation adaptation datum". However, the Examiner hereby interprets "one operation adaptation datum" as an authorization for processing payment since most payment systems include authorization for processing payment. Accordingly, it would have been obvious to a

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person of ordinary skill in the art at the time the invention was made to include an operation adaptation datum into the payment system of Leleu because this would secure electronic server to allow safe completion of online transactions.

## RESPONSE TO ARGUMENTS

5. Applicant's arguments have been fully considered but they are moot in view of new ground (s) of rejection.

## REMARKS

6. Applicant's representative argues that Leleu fails to disclose:

a. "one operation adaptation datum". However, the Examiner hereby interprets "one operation adaptation datum" as an authorization for processing payment since most payment systems include authorization for processing payment. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an operation adaptation datum into the payment system of Leleu because this would secure electronic server to allow safe completion of online transactions.

b. Applicant's representative also argues that a new technology has been proposed (they called, in their specification, token technology), which is based on the insertion of payment tokens. However, the Examiner respectfully disagrees since token technology is well-known in the payment technology art.

### CONCLUSION

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pierre Eddy Elisca

Primary Patent Examiner

March 22, 2005